THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 24464 of 2005

Oral order:

The petitioner is working as Driver with the respondents-APSRTC. During periodic medical examination, the petitioner was found unfit to hold the post in Class-III of A1-category, by the Doctors of APSRTC at Tarnaka Hospital. In pursuance thereof, respondent No.2 issued proceedings dated 17.10.2005, calling upon the petitioner to exercise his option whether he would prefer appeal to the Medical Board or take voluntary retirement on medical grounds, within three days. Assailing these proceedings, the petitioner filed the writ petition.

The learned counsel for the petitioner submits that the Medical Officer, Nizam's Institute of Medical Sciences, having examined the petitioner, recommended for entrusting light works to him. Pursuant to such recommendation, the learned counsel submits that the petitioner has made application to the respondents to provide him alternative employment, but the respondents without considering the same, have issued the impugned proceedings calling upon the petitioner to prefer appeal to the Medical Board or take voluntary retirement, which is illegal and arbitrary.

The respondents filed counter denying the averments made in the affidavit filed in support of the writ petition. The learned Standing Counsel for the respondents submitted that the petitioner neither preferred appeal to the Medical Board nor filed any application seeking alternative employment, and therefore, there was no occasion for the respondents to consider the request of the petitioner for alternative employment.

Though the learned counsel for the petitioner submitted that the petitioner has filed an application before the respondents seeking alternative employment, he has not filed any material, much less copy of the application or acknowledgement of its receipt, to substantiate such a contention. Be that as it may, inasmuch as it is the case of the petitioner that he having been declared unfit is entitled to be provided alternative employment,

I deem it appropriate to dispose of the writ petition with the following directions:

The petitioner is directed to file an application before the respondents seeking alternative employment within a period of one week from the date of receipt of a copy of this order, and on such application being filed, the respondents shall consider and dispose of the same, and pass appropriate orders, in accordance with law, expeditiously.

Accordingly, the writ petition is disposed of. No costs.

_____

N.V. RAMANA, J.

Date: 28th March, 2006.

KSR